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Attorneys for Defendant
PAVESTONE, LLC

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JORGE LUIS JARAMILLO LOPEZ, an
individual,

Plaintiff,

vs.

PAVESTONE, LLC, a corporation; and DOES
1 through 50, inclusive,

Defendant.

Case No:

*[Originally Yolo Superior Court Case No.
CV2022-1135]*

**DECLARATION OF GREGORY L.
BLUEFORD IN SUPPORT OF DEFENDANT
PAVESTONE, LLC'S NOTICE OF
REMOVAL OF ACTION PURSUANT TO 28
U.S.C. §§ 1332, 1441 and 1446**

Complaint Filed: July 6, 2022

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I, GREGORY L. BLUEFORD, hereby declare and state as follows:

1. I am an attorney at law duly licensed to practice in the State of California and before this I am an associate with Fisher & Phillips LLP, counsel of record for Defendant PAVESTONE, (“Defendant”) in this case and make this Declaration in support of Defendant’s Notice of Removal on. All of the information set forth herein is based on my personal and first-hand knowledge where indicated, and if called and sworn as a witness, I could and would testify competently.

2. On July 6, 2022, Plaintiff Jorge Luis Jaramillo Lopez (“Plaintiff”) filed a Complaint in Superior Court of the State of California in and for the County of Yolo styled *Jorge Luis Jaramillo v. Pavestone, LLC, a corporation, and Does 1-50, inclusive*, Case No. CV2022-1135. In the Complaint, Plaintiff alleges six causes of action for: (1) Violation of Labor Code section 233; (2) Violation of the California Family Rights Act (“CFRA”); (3) Wrongful Termination in Violation of Public Policy; (4) Violation of Labor Code section 203; (5) Failure to Provide Employment Records in Violation of Labor Code section 226 and 1198.5, and; (6) Violation of Business & Professions Code section 17200 et seq.

3. On or about July 12, 2022, Plaintiff served on Defendant a copy of the Summons and Complaint, Civil Case Cover Sheet and Notice of Case Management. A true and correct copy of the documents served on Defendants are attached hereto as **Exhibit A**.

4. Defendant submitted for filing on August 10, 2022, an Answer to the Complaint filed in County Superior Court asserting general denials and appropriate affirmative defenses. A true and copy of the Answer is attached hereto as **Exhibit B**.

///

5. As of the date of this Removal, I am not aware of any other process, pleadings, and/or orders have been served upon Defendant in this case.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on August 10, 2022, at Sacramento, California.

/s/ Gregory L. Blueford
GREGORY L. BLUEFORD

EXHIBIT A

EXHIBIT A

Corporate Creations Network Inc.
 801 US Highway 1 North Palm Beach, FL 33408

Pavestone, LLC
 Courtney Hull Corporate Paralegal
 The Quikrete Companies, LLC
 5 Concourse Parkway Suite 1900
 Atlanta GA 30328

07/13/2022

SERVICE OF PROCESS NOTICE

The following is a courtesy summary of the enclosed document(s). **ALL information should be verified by you.**

Item: 2022-227

Note: Any questions regarding the substance of the matter described below, including the status or how to respond, should be directed to the contact set forth in line 12 below or to the court or government agency where the matter is being heard. **IMPORTANT:** All changes or updates to the SOP contact individuals or their contact information must be submitted in writing to SOPcontact@corpcreations.com. Any changes will become effective upon written confirmation of Corporate Creations.

1.	Entity Served:	Pavestone, LLC
2.	Title of Action:	Jorge Luis Jaramillo Lopez vs. Pavestone, LLC, etc.
3.	Document(s) Served:	Summons Compliant for Damages For: 1. Violation of Labor Code 233 2., etc. Exhibit "1" Verification
4.	Court/Agency:	Yolo County Superior Court
5.	State Served:	California
6.	Case Number:	CV2022-1135
7.	Case Type:	Violation of Labor Code
8.	Method of Service:	Hand Delivered
9.	Date Received:	Tuesday 07/12/2022
10.	Date to Client:	Wednesday 07/13/2022
11.	# Days When Answer Due: Answer Due Date:	30 Thursday 08/11/2022 CAUTION: Client is solely responsible for verifying the accuracy of the estimated Answer Due Date. To avoid missing a crucial deadline, we recommend immediately confirming in writing with opposing counsel that the date of the service in their records matches the Date Received.
12.	Sop Sender: (Name, City, State, and Phone Number)	Eric B. Kingsley Encino, CA 818-990-8300
13.	Shipped To Client By:	Email Only with PDF Link
14.	Tracking Number:	
15.	Handled By:	051
16.	Notes:	Also Attached: * Civil Case Cover Sheet Unlimited * Instruction on How to Complete the Cover Sheet, etc.

NOTE: This notice and the information above is provided for general informational purposes only and should not be considered a legal opinion. The client and their legal counsel are solely responsible for reviewing the service of process and verifying the accuracy of all information. At Corporate Creations, we take pride in developing systems that effectively manage risk so our clients feel comfortable with the reliability of our service. We always deliver service of process so our clients avoid the risk of a default judgment. As registered agent, our role is to receive and forward service of process. To decrease risk for our clients, it is not our role to determine the merits of whether service of process is valid and effective. It is the role of legal counsel to assess whether service of process is invalid or defective. Registered agent services are provided by Corporate Creations Network Inc.

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
by Superior Court of CA,
County of Yolo,
7/7/2022

By: L. Ramos-Casanova, Deputy

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

PAVESTONE, LLC, a corporation; and DOES 1 thru 50, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

JORGE LUIS JARAMILLO LOPEZ, an individual

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Superior Court of the State of California for the County of Yolo - Main Courthouse
1000 Main Street, Woodland, CA 95695

CASE NUMBER: (Número del Caso):
CV2022-1135

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es): KINGSLEY & KINGSLEY, APC

ERIC B. KINGSLEY, Esq. (SBN 185123); eric@kingsleykingsley.com; LIANE KATZENSTEIN LY, Esq. (SBN 259230); liane@kingsleykingsley.com; JESSICA L. ADLOUNI, Esq. (SBN 328571); jessica@kingsleykingsley.com; 16133 Ventura Blvd., Suite 1200, Encino, CA 91436; Tel: (818) 990-8300; Fax: (818) 990-2903

DATE:

(Fecha) 7/7/2022

SHAWN C. LANDRY

Clerk, by

(Secretario)

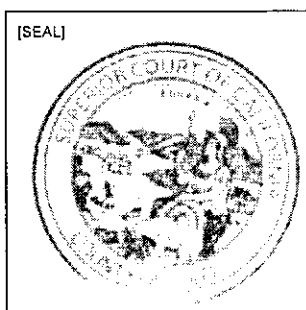
/s/ L. Ramos-Casanova

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): Pavestone, LLC, a corporation
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

KINGSLEY & KINGSLEY, APC

ERIC B. KINGSLEY, Esq., Cal. Bar No. 185123

eric@kingsleykingsley.com

LIANE KATZENSTEIN LY, Esq., Cal. Bar No. 259230

liane@kingsleykingsley.com

JESSICA L. ADLOUNI, Esq., Cal Bar No. 328571

jessica@kingsleykingsley.com

16133 Ventura Blvd., Suite 1200

Encino, CA 91436

Telephone: (818) 990-8300

Fax: (818) 990-2903

Attorneys for Plaintiff

ELECTRONICALLY FILED

by Superior Court of CA,

County of Yolo,

on 7/6/2022 11:22 AM

By: L. Ramos-Casanova, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF YOLO

JORGE LUIS JARAMILLO LOPEZ,

PLAINTIFF, an individual,

v.

PAVESTONE, LLC, a corporation; and
DOES 1 thru 50, inclusive,

DEFENDANT.

CASE NO. CV2022-1135

COMPLAINT FOR DAMAGES FOR:

1. Violation of Labor Code § 233
2. Violation of CFRA (Gov. Code § 12945.2)
3. Wrongful Termination In Violation of Public Policy
4. Penalties Pursuant to Labor Code § 203
5. Failure To Provide Employment Records Violation Of Labor Code §§ 226 And 1198.5
6. Violation of Business & Professions Code § 17200 *et seq.*

1 Plaintiff JORGE LUIS JARAMILLO LOPEZ ("Plaintiff"), on behalf of himself
2 individually, complains of Defendant PAVESTONE, LLC ("Defendant") as follows:

3 **I.**

4 **JURISDICTION AND VENUE**

5 1. This Court has subject matter jurisdiction over all causes of action asserted herein
6 pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure
7 § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive
8 of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the
9 State of California or is subject to adjudication in the courts of the State of California.

10 2. This Court has personal jurisdiction over Defendant because Defendant has caused
11 injuries in the County of Yolo and the State of California through its acts, and by its violation of
12 the California Labor Code, California state common law, and California Business & Professions
13 Code § 17200, *et seq.*

14 3. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
15 Civil Procedure § 395. Defendant operates within California and does business within Yolo
16 County. The unlawful acts alleged herein have a direct effect on Plaintiff within the State of
17 California and the county of Yolo.

18 **II.**

19 **PARTIES**

20 **A. PLAINTIFF**

21 4. Plaintiff JORGE LUIS JARAMILLO LOPEZ is a resident of California.

22 5. Plaintiff, and at all times pertinent hereto, was employed by Defendant as a non-
23 exempt employee.

24 6. Upon information and belief, Plaintiff is covered by California Industrial Welfare
25 Commission Occupational Wage Order No. 1-2001 (Title 8 Cal. Code of Regs. § 11010).

26 **B. DEFENDANTS**

27 7. Defendant PAVESTONE, LLC is a Delaware corporation operating within the
28 State of California including in the County of Yolo. Defendant's corporate address is 5 Concourse

1 Parkway Suite 1900 Atlanta, GA 30328. Defendant's California address is 27600 Country Road
2 90 Winters, CA 95674.

3 8. Defendant has done and does business throughout the State of California.

4 9. Defendant employed Plaintiff within California. The violations alleged herein arose
5 in the County of Yolo, California.

6 10. At all times set forth herein, Defendant has employed five (5) or more employees
7 and is an "employer" as defined by Government Code §§ 12926(d) and 12945.2(b)(3)(A), and
8 subject to the provisions of the Fair Employment and Housing Act ("FEHA") and other applicable
9 laws.

10 11. The true names and capacities, whether individual, corporate, associate, or
11 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to
12 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
13 § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
14 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred
15 to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
16 capacities of the Defendants designated hereinafter as DOES when such identities become known.

17 12. Plaintiff is informed and believes, and based thereon alleges, that each of the
18 fictitiously named Defendants is responsible in some manner for, and proximately caused, the
19 harm and damages alleged herein below.

20 13. Plaintiff is informed and believes, and based thereon alleges, that each of the
21 Defendants named herein acted as the employee, agent, spouse, partner, alter-ego, joint-venturer,
22 and/or joint-employer of each of the other Defendant named herein and, in doing the acts and in
23 carrying out the wrongful conduct alleged herein, each of the Defendants acted within the scope
24 of their relationship with and with the permission, consent, and ratification of each of the other
25 Defendants named herein. Furthermore, Defendants acted in all respects as the employers or joint
26 employers. Defendants, and each of them, exercised control over the wages, hours or working
27 conditions of Plaintiff, or suffered or permitted Plaintiff to work, or engaged Plaintiff, thereby
28 creating a common law employment relationship, with Plaintiff. Therefore, Defendants, and each

1 of them, employed or jointly employed Plaintiff.

2 14. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
3 all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
4 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
5 attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer
6 and/or joint employer of Plaintiff.

7 **III.**

8 **EXHAUSTION OF REMEDIES**

9 15. On June 30, 2022 Plaintiff filed a timely complaint with the California
10 Department of Fair Employment and Housing ("DFEH") against Defendant, regarding the
11 factual allegations and causes of action in this Complaint. Thereafter, Plaintiff received a Right
12 to Sue notice from the DFEH. (See Exhibit "1".)

13 **IV.**

14 **FACTUAL BACKGROUND**

15 16. Plaintiff worked for Defendant from approximately November 16, 2004 to January
16 7, 2022. At all relevant times, Plaintiff was a qualified, non-exempt employee.

17 17. At all relevant times, Plaintiff was a non-exempt employee covered by California
18 Industrial Welfare Commission Occupational Wage Order No. 1-2001 (Title 8 Cal. Code of Regs.
19 § 11010).

20 18. Plaintiff earned \$23.87 per hour at the time of termination.

21 19. Defendant employed Plaintiff as a Production Operator and supervisor.

22 20. On or around December 20, 2021, Plaintiff took vacation to travel to Mexico.
23 Plaintiff was due to return to work on approximately January 3, 2022.

24 21. During his vacation, he started feeling ill and experiencing back pain and
25 headaches. On January 2, 2022, he tested positive for coronavirus and was thus unable to travel
26 back to California. During his illness, Plaintiff saw a health care provider twice and was prescribed
27 medication.

28 22. Plaintiff's coronavirus constituted a serious health condition under the California

1 Family Rights Act ("CFRA"), Government Code § 12945.2.

2 23. On January 4, 2022, Manager Daniel Gomez called Plaintiff and told him that if he
3 did not show up to work on January 6, 2022, he would be terminated. Plaintiff called Manager
4 Gomez and informed him he could not travel because he was sick and had to stay in Mexico for
5 two more weeks. Manager Gomez said no and terminated Plaintiff.

6 24. Plaintiff had accrued and available sick leave, but Defendant had denied his right
7 to take sick leave and terminated him for attempting to exercise his right to sick leave.

8 25. Defendant also failed to grant leave, denying the exercise of, or attempt to exercise,
9 rights provided to Plaintiff under the CFRA, Government Code § 12945.2.

10 26. Defendant wrongfully terminated Plaintiff.

11 27. Approximately one month later, a Human Resources employee called and asked
12 Plaintiff about his final check. Plaintiff informed HR that he had had COVID and when she asked
13 if he had proof, offered to send her a copy of his test results. She declined.

14 28. Defendant willfully failed to pay all wages due to Plaintiff at the time of
15 termination. This failure was willful, without legal justification, and interfered with Plaintiff's
16 rights.

17 29. Defendant willfully failed to provide Plaintiff with his personnel file and pay data
18 after Plaintiff sent written requests for copies of his personnel file and his pay records. Defendant
19 failed to respond and thus refused to comply with this request in violation of Labor Code §§ 226
20 and 1198.5. Plaintiff is seeking penalties and injunctive relief.

21 30. Plaintiff brings this action pursuant to Labor Code §§ 201, 202, 203, 226, 233, and
22 1198.5; and Wage Order No. 1-2001 (Title 8 Cal. Code of Regs. § 11010), seeking reinstatement,
23 actual damages, penalties, injunctive and other equitable relief, and reasonable attorneys' fees and
24 costs.

25 31. Plaintiff also brings this action pursuant to Gov. Code § 12945.2.

26 32. Plaintiff, on behalf of himself, pursuant to Business & Professions Code §§ 17200-
27 17208, also seeks injunctive relief, restitution, and disgorgement of all benefits Defendant enjoyed
28 from its unlawful conduct as described herein.

1 V.

2 FIRST CAUSE OF ACTION

3 VIOLATION OF LABOR CODE § 233

4 33. Plaintiff realleges and incorporates by reference all preceding paragraphs as
5 though set forth in full herein.

6 34. Labor Code § 233(a) provides: "Any employer who provides sick leave for
7 employees shall permit an employee to use in any calendar year the employee's accrued and
8 available sick leave entitlement, in an amount not less than the sick leave that would be accrued
9 during six months at the employee's then current rate of entitlement, for the reasons specified in
10 subdivision (a) of Section 246.5. The designation of sick leave taken for these reasons shall be
11 made at the sole discretion of the employee."

12 35. Labor Code § 246.5(a) provides: "Upon the oral or written request of an
13 employee, an employer shall provide paid sick days for the following purposes: (1) Diagnosis,
14 care, or treatment of an existing health condition of, or preventive care for, an employee or an
15 employee's family member."

16 36. Labor Code § 233(c) provides that "[a]n employer shall not deny an employee the
17 right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner
18 discriminate against an employee for using, or attempting to exercise the right to use, sick leave
19 to attend to an illness . . . or for any other reason specified in subdivision (a) of Section 246.5."
20 (See also Lab. Code, § 246.5(c).)

21 37. Plaintiff had accrued and available sick leave. However, Defendant denied his
22 right to paid sick leave in January 2022, as described above, and terminated him for attempting
23 to exercise his right to sick leave.

24 38. The aforementioned acts of Defendant were willful, wanton, malicious,
25 intentional, oppressive, and despicable, and were done in willful and conscious disregard of the
26 rights of Plaintiff, and were done by managerial agents and employees of Defendant, or with the
27 express knowledge, consent, and ratification of managerial employees of Defendant, and thereby
28

1 justify the awarding of punitive and exemplary damages in an amount to be determined at the
2 time of trial.

3 39. An "employee aggrieved by a violation of this section shall be entitled to
4 reinstatement and actual damages or one day's pay, whichever is greater, and to appropriate
5 equitable relief. (Lab. Code, § 233(d).) The court may award reasonable attorney's fees to a
6 prevailing employee. (Lab. Code, § 233(e).)

7 **VI.**

8 **SECOND CAUSE OF ACTION**

9 **VIOLATION OF CFRA (GOV. CODE § 12945.2)**

10 40. Plaintiff realleges and incorporates by reference all preceding paragraphs as
11 though set forth in full herein.

12 41. Upon information and belief, Plaintiff was eligible for leave for his own serious
13 health condition, coronavirus, under the CFRA.

14 42. It is unlawful for an employer to refuse to grant an employee's request for leave
15 for his own serious health condition that made him unable to perform the functions of his
16 position at that time. (Gov. Code § 12945.2(a),(b)(4)(C).)

17 43. The CFRA also prohibits an employer from interfering with, restraining, or
18 denying the exercise of, or attempt to exercise, any rights under CFRA. (Gov. Code §
19 12945.2(q).)

20 44. Plaintiff requested leave for his own serious health condition that made him
21 unable to perform the functions of his job with Defendant.

22 45. Plaintiff provided reasonable notice to Defendant under the circumstances,
23 including its expected length.

24 46. Defendant refused to grant Plaintiff's request for leave, and instead terminated
25 him.

26 47. As a direct and proximate cause of Defendant's wrongful conduct, Plaintiff has
27 suffered, and will continue to suffer, substantial losses in earnings and other employment
28 benefits in an amount within the jurisdiction of this court, according to proof at the time of trial.

48. As a further direct and legal result of Defendant's conduct, Plaintiff has been caused to, and did suffer, and continues to suffer severe emotional and mental distress and anguish, humiliation, embarrassment, anger, shock, pain, discomfort, and anxiety, the extent of which is not fully known at this time, and the amount of damages caused thereby is not yet fully ascertained, the precise amount to be proven at the time of trial.

49. The aforementioned acts of Defendant were willful, wanton, malicious, intentional, oppressive, and despicable, and were done in willful and conscious disregard of the rights of Plaintiff, and were done by managerial agents and employees of Defendant, or with the express knowledge, consent, and ratification of managerial employees of Defendant, and thereby justify the awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

50. Defendant's actions were a substantial factor in causing Plaintiff's harm.

51. In addition, pursuant to Government Code § 12965(c)(6), Plaintiff is entitled to attorneys' fees in prosecuting this lawsuit.

VII.

THIRD CAUSE OF ACTION

WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

52. Plaintiff realleges and incorporates by reference all preceding paragraphs as though set forth in full herein.

53. Jurisdiction is invoked pursuant to the public policy and common law of the State of California, pursuant to *Tameny v. Atlantic Richfield Company*, 27 Cal. 3d 167 (1980).

54. Plaintiff's termination was wrongful in that it violated the fundamental public policies of California that prohibit discrimination for exercising, or attempting to exercise, the right to sick leave and leave for a serious health condition, as expressed in Labor Code §§ 233 and 246.5 and Government Code § 12945.2. Defendant discharged Plaintiff in violation of these public policies.

55. Additionally, as expressed in federal, state, and local public health orders and guidance in effect at the relevant time, it is a fundamental public policy of the State of California

1 to preserve public health and safety at all times, and especially during the coronavirus pandemic.
2 Defendant's denial of Plaintiff's attempted use of sick leave and subsequent termination for such
3 attempt is in violation of these public policies.

4 56. As a direct and proximate cause of his wrongful discharge, Plaintiff has suffered
5 and will continue to suffer damages in an amount within the jurisdiction of this court, the exact
6 amount to be proven at trial.

7 57. As a proximate result of the wrongful acts of Defendant, Plaintiff has suffered and
8 continues to suffer actual, consequential, and incidental financial losses, including without
9 limitation, loss of salary and benefits, emotional distress, humiliation, mental anguish, anger, and
10 embarrassment, all in an amount subject to proof at the time of trial.

11 58. The aforementioned acts of Defendant were willful, wanton, malicious,
12 intentional, oppressive, and despicable, and were done in willful and conscious disregard of the
13 rights of Plaintiff, and were done by managerial agents and employees of Defendant, or with the
14 express knowledge, consent, and ratification of managerial employees of Defendant, and thereby
15 justify the awarding of punitive and exemplary damages in an amount to be determined at the
16 time of trial.

17 **VIII.**

18 **FOURTH CAUSE OF ACTION**

19 **PENALTIES PURSUANT TO LABOR CODE § 203**

20 59. Plaintiff realleges and incorporates by reference all preceding paragraphs as
21 though set forth in full herein.

22 60. Plaintiff is no longer employed by Defendant.

23 61. Defendant's failure to pay wages at the time of termination, as alleged above was
24 willful in that Defendant knew wages to be due but failed to pay them, thus entitling Plaintiff to
25 penalties under Labor Code § 203, which provides that an employee's wages shall continue as a
26 penalty until paid for a period of up to thirty (30) days from the time they were due.

27 62. Defendant has failed to pay Plaintiff a sum certain at the time of termination and
28 have failed to pay those sums for thirty (30) days thereafter. Pursuant to the provisions of Labor

1 Code § 203, Plaintiff is entitled to a penalty in the amount of Plaintiff's daily wage multiplied by
2 thirty (30) days.

3 **IX.**

4 **FIFTH CAUSE OF ACTION**

5 **FAILURE TO PROVIDE EMPLOYMENT RECORDS VIOLATION OF LABOR CODE**

6 **§§ 226 AND 1198.5**

7 63. Plaintiff realleges and incorporates by reference all preceding paragraphs as
8 though set forth in full herein.

9 64. On April 8, 2022, Plaintiff mailed to Defendant his first written request to his
10 employer, Defendant, to receive a copy of his personnel file and payroll records. The letter cited
11 Labor Code §§ 226 and 1198.5.

12 65. Defendant did not provide the documentation requested by Plaintiff within the
13 statutory time frames causing Plaintiff to mail a second written request to Defendant on May 12,
14 2022. Plaintiff received a returned certified mail receipt, albeit unsigned, on May 19, 2022.

15 66. Defendant did not provide the documentation requested by Plaintiff in his second
16 written request.

17 67. On June 9, 2022, Plaintiff mailed a third written request to Defendant to receive a
18 copy of his personnel file and payroll records within fifteen days of the date of the request.

19 68. Defendant did not provide the documentation requested by Plaintiff in his third
20 written request until June 29, 2022.

21 69. Labor Code § 226(f) provides that "[a] failure by an employer to permit a current
22 or former employee to inspect or copy records within the . . ." statutory time frame ". . . entitles
23 the current or former employee . . . to recover a seven-hundred-fifty-dollar (\$750) penalty from
24 the employer."

25 70. Additionally, Labor Code § 226(h) permits an employee to bring an action for
26 injunctive relief to ensure compliance with Labor Code § 226 and states that employee is entitled
27 to an award of costs and reasonable attorney's fees.
28

71. Labor Code § 1198.5(a) states: “Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.”

72. Labor Code § 1198.5(k) provides that if an employer fails to permit an inspection or fails to permit an employee to copy personnel records within the times specified, the current or former employee may recover a penalty of seven hundred fifty dollars (\$750) from the employer.

73. Additionally, Labor Code § 1198.5(l) permits an employee to bring an action for injunctive relief to obtain compliance with this section, and may recover costs and reasonable attorney's fees in such an action.

74. As such, Defendant has violated Labor Code §§ 226 and 1198.5 and Plaintiff is entitled to production of the documents requested, penalties, and attorney's fees and costs.

X.

SIXTH CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.

75. Plaintiff realleges and incorporates by reference all preceding paragraphs as though set forth in full herein.

76. California Business & Professions Code § 17200 *et seq.* (also referred to herein as the “Unfair Business Practices Act,” “Unfair Competition Law,” or “UCL”), prohibits unfair competition in the form of any unlawful and unfair business acts or practices.

77. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

78. Plaintiff, on behalf of himself and the general public, brings this claim pursuant to Business & Professions Code § 17200, *et seq.* The conduct of Defendant as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff and the general

1 public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning
2 of Code of Civil Procedure § 1021.5.

3 79. California's wage and hour laws and protections for the payment of earned wages,
4 and the right to seek legal redress for wage violations, express fundamental public policies.
5 Providing employees with proper wages and compensation are fundamental public policies of
6 this State and of the United States. Labor Code § 90.5(a) articulates the public policies of this
7 State to enforce vigorously minimum labor standards, to ensure that employees are not required
8 or permitted to work under substandard and unlawful conditions, and to protect law-abiding
9 employers and their employees from competitors who lower their costs by failing to comply with
10 minimum labor standards.

11 80. Defendant has violated statutes and public policies as alleged herein. Through the
12 conduct alleged in this Complaint, Defendant has acted contrary to these public policies, have
13 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair
14 business practices in violation of Business & Profession Code § 17200, *et seq.*, depriving
15 Plaintiff and all interested persons of rights, benefits, and privileges guaranteed to all employees
16 under law.

17 81. Defendant's conduct, as alleged hereinabove, constitutes unfair competition in
18 violation of § 17200, *et seq.* of the Business & Professions Code.

19 82. Defendant, by engaging in the conduct herein alleged, either knew, or in the
20 exercise of reasonable care, should have known that the conduct was and is unlawful. As such it
21 is a violation of § 17200, *et seq.* of the Business & Professions Code.

22 83. As a proximate result of the above-mentioned acts of Defendant, Plaintiff has
23 been damaged, including suffering a loss of money, in a sum as may be proven.

24 84. Plaintiff seeks an order of this court awarding restitution, injunctive relief, and all
25 other legal and equitable relief allowed under Business & Professions Code § 17200 *et seq.*, plus
26 interest, attorneys' fees and costs pursuant to, inter alia, Code of Civil Procedure § 1021.5.

27 **RELIEF REQUESTED**

28 **WHEREFORE**, Plaintiff seeks judgement against Defendant and prays for the following

1 relief:

- 2 a. For general, special, and compensatory damages, according to proof;
- 3 b. For punitive and exemplary damages in an amount appropriate to punish Defendant
- 4 and deter others from engaging in similar misconduct, according to proof;
- 5 c. Plaintiff requests penalties pursuant to Labor Code §§ 226(f) and 1198.5(k) for
- 6 violation of Labor Code §§ 226 and 1998.5;
- 7 d. For actual damages or one day's pay, whichever is greater, and equitable relief
- 8 pursuant to Labor code § 233(d);
- 9 e. For penalties pursuant to Labor Code § 203 equal to Plaintiff's daily wages times
- 10 thirty (30) days;
- 11 f. For restitution for unfair competition pursuant to Business & Professions Code
- 12 §17200, et seq., including disgorgement or profits, in an amount as may be proven;
- 13 g. An award of prejudgment and post judgment interest;
- 14 h. An award providing for payment of costs of suit;
- 15 i. An award of attorneys' fees and costs; and
- 16 j. Such other and further relief as this Court may deem proper and just.

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

19

20 DATED: July 5, 2022

KINGSLEY & KINGSLEY, APC

21

22 By: 

23 Jessica Adlouni
24 Attorneys for Plaintiff

25

26

27

28

EXHIBIT "1"



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

June 30, 2022

RE: **Notice of Filing of Discrimination Complaint**
DFEH Matter Number: 202206-17458730
Right to Sue: Jaramillo Lopez / Pavestone, LLC

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for DFEH's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact DFEH's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GAVIN NEWSOM, GOVERNOR

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

June 30, 2022

Jorge Jaramillo Lopez
c/o Kingsley & Kingsley, APC 16133 Ventura Boulevard Suite 1200
Encino, CA 91436

RE: **Notice of Case Closure and Right to Sue**
DFEH Matter Number: 202206-17458730
Right to Sue: Jaramillo Lopez / Pavestone, LLC

Dear Jorge Jaramillo Lopez:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective June 30, 2022 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for DFEH's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact DFEH's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfefh.ca.gov

KEVIN KISH, DIRECTOR

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)

In the Matter of the Complaint of
Jorge Jaramillo Lopez

DFEH No. 202206-17458730

Complainant,

vs.

Pavestone, LLC
27600 Country Road 90
Winters, CA 95674

Respondents

1. Respondent **Pavestone, LLC** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant **Jorge Jaramillo Lopez**, resides in the City of **Encino**, State of **CA**.

3. Complainant alleges that on or about **January 7, 2022**, respondent took the following adverse actions:

Complainant was discriminated against because of complainant's family care or medical leave (cfra) and as a result of the discrimination was terminated, denied family care or medical leave (cfra).

Complainant experienced retaliation because complainant requested or used family care or medical leave (cfra) and as a result was terminated, denied family care or medical leave (cfra).

Additional Complaint Details: Jorge Luis Jaramillo Lopez was a qualified employee of Pavestone, LLC from approximately November 16, 2004 to January 7, 2022. At all relevant times, Pavestone, LLC has employed more than 5 people. On or around December 20, 2021, Mr. Lopez took vacation to travel to Mexico. Mr. Lopez was due to return to work on

1 approximately January 3, 2022. During his vacation, he started feeling ill and experiencing
2 back pain and headaches. On January 2, 2022, he tested positive for coronavirus and was
3 thus unable to travel back to California. During his illness, Mr. Lopez saw a health care
4 provider twice and was prescribed medication. Mr. Lopez's coronavirus constituted a serious
5 health condition under the California Family Rights Act ("CFRA"), Government Code §
6 12945.2. On January 4, 2022, Manager Daniel Gomez called Mr. Lopez and told him that if
7 he did not show up to work on January 6, 2022, he would be terminated. Mr. Lopez called
8 Manager Gomez and informed him he could not travel because he was sick and had to stay
9 in Mexico for two more weeks. Manager Gomez said no and terminated Plaintiff. Defendant
10 failed to grant leave, denying the exercise of, or attempt to exercise, rights provided to Mr.
11 Lopez under the CFRA, Government Code § 12945.2.
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1 VERIFICATION

2 I, **Jessica Adlouni**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On June 30, 2022, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Lemoore, CA**
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): KINGSLEY & KINGSLEY, APC ERIC B. KINGSLEY, Esq. (SBN 185123); eric@kingsleykingsley.com LIANE KATZENSTEIN LY, Esq. (SBN 259230); liane@kingsleykingsley.com JESSICA L. ADLOUNI, Esq. (SBN 328571); jessica@kingsleykingsley.com 16133 Ventura Blvd., Suite 1200, Encino, CA 91436 TELEPHONE NO.: 818-990-8300 FAX NO. (Optional): 818-990-2903 E-MAIL ADDRESS: ATTORNEY FOR (Name): JORGE LUIS JARAMILLO LOPEZ, PLAINTIFF, AN INDIVIDUAL	FOR COURT USE ONLY ELECTRONICALLY FILED by Superior Court of CA, County of Yolo, on 7/6/2022 11:22 AM By: L. Ramos-Casanova, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF YOLO STREET ADDRESS: 1000 MAIN STREET MAILING ADDRESS: CITY AND ZIP CODE: WOODLAND, CA 95695 BRANCH NAME: MAIN COURTHOUSE	
CASE NAME: JORGE LUIS JARAMILLO LOPEZ V. PAVESTONE, LLC	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER: CV2022-1135 JUDGE: DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): SIX (6)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 5, 2022
 Jessica L. Adlouni

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA COUNTY OF YOLO 1000 MAIN STREET WOODLAND, CA. 95695 530-406-6704	<i>For Court Use</i> ELECTRONICALLY FILED by Superior Court of CA, County of Yolo, on 7/6/2022 11:22 AM By: L. Ramos-Casanova, Deputy
Jorge Luis Jaramillo Lopez, an individual <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p style="text-align: center;">Defendant</p> Pavestone, LLC	Case CV2022-1135
NOTICE OF CASE MANAGEMENT CONFERENCE	

NOTICE TO ALL APPEARING PARTIES AND THEIR ATTORNEYS:

Notice is hereby given that the above-entitled action has been set for a Case Management Conference on 10/31/2022 at 9:00 AM in Department TBD.

The plaintiff shall serve the Notice of Case Management Conference on each defendant with the complaint.

You must file a Case Management Statement 15 days prior to the above date.

Date: 7/06/2022

SHAWN C. LANDRY, COURT EXECUTIVE OFFICER

/s/ L. Ramos-Casanova

L. Ramos-Casanova , Deputy Clerk

YOCV0142

8/6/2020

JUL 12 2022

Corporate Creations Network Inc.
 801 US Highway 1 North Palm Beach, FL 33408

Pavestone, LLC
 Courtney Hull Corporate Paralegal
 The Quikrete Companies, LLC
 5 Concourse Parkway Suite 1900
 Atlanta GA 30328

07/20/2022

SERVICE OF PROCESS NOTICE

The following is a courtesy summary of the enclosed document(s). **ALL information should be verified by you.**

Item: 2022-235

Note: Any questions regarding the substance of the matter described below, including the status or how to respond, should be directed to the contact set forth in line 12 below or to the court or government agency where the matter is being heard. **IMPORTANT:** All changes or updates to the SOP contact individuals or their contact information must be submitted in writing to SOPcontact@corpcreations.com. Any changes will become effective upon written confirmation of Corporate Creations.

1.	Entity Served:	Pavestone, LLC
2.	Title of Action:	Jorge Luis Jatamillo Lopez vs. Pavestone, LLC., etc., et al.
3.	Document(s) Served:	Notice of Serving Court's Notice of Case Management Conference Exhibit 1
4.	Court/Agency:	Yolo County Superior Court
5.	State Served:	California
6.	Case Number:	CV2022-1135
7.	Case Type:	
8.	Method of Service:	Regular Mail
9.	Date Received:	Tuesday 07/19/2022
10.	Date to Client:	Wednesday 07/20/2022
11.	# Days When Answer Due: Answer Due Date:	See Notes CAUTION: Client is solely responsible for verifying the accuracy of the estimated Answer Due Date. To avoid missing a crucial deadline, we recommend immediately confirming in writing with opposing counsel that the date of the service in their records matches the Date Received.
12.	Sop Sender: (Name, City, State, and Phone Number)	Kingsley & Kingsley, APC Encino, CA 818-990-8300
13.	Shipped To Client By:	Email Only with PDF Link
14.	Tracking Number:	
15.	Handled By:	051
16.	Notes:	Please review the enclosed documents in order to calculate the response due date.

NOTE: This notice and the information above is provided for general informational purposes only and should not be considered a legal opinion. The client and their legal counsel are solely responsible for reviewing the service of process and verifying the accuracy of all information. At Corporate Creations, we take pride in developing systems that effectively manage risk so our clients feel comfortable with the reliability of our service. We always deliver service of process so our clients avoid the risk of a default judgment. As registered agent, our role is to receive and forward service of process. To decrease risk for our clients, it is not our role to determine the merits of whether service of process is valid and effective. It is the role of legal counsel to assess whether service of process is invalid or defective. Registered agent services are provided by Corporate Creations Network Inc.

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Tel: (818) 990-8300
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7 Attorneys for Plaintiff
8
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF YOLO**

12 JORGE LUIS JARAMILLO LOPEZ,
13 PLAINTIFF, an individual,

14 v.

15 PAVESTONE, LLC, a corporation; and
DOES 1 thru 50, inclusive,

16 DEFENDANTS.
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CASE NO. CV2022-1135

**NOTICE OF SERVING COURT'S NOTICE
OF CASE MANAGEMENT CONFERENCE**

Date: October 31, 2022
Time: 9:00 AM
Dept.: TBD

1 **PLEASE TAKE NOTICE** that the above-entitled case is set for Case Management
2 Conference on October 31, 2022 at 9:00 AM at the above-entitled court located at 1000 Main
3 Street, Woodland, CA 95695. Department is to be determined later. The Parties must file and serve
4 a Case Management Statement at least fifteen (15) days prior to the Case Management Conference.

5 Plaintiff was ordered to give notice and hereby attaches as Exhibit "1" a true and correct
6 copy of the Court's Notice of Case Management Conference.

7
8 DATED: July 11, 2022

KINGSLEY & KINGSLEY, APC

9
10
11 By: 

12 Jessica Adlouni

13 Attorneys for Plaintiff Jorge Luis Jaramillo Lopez
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EXHIBIT "1"

SUPERIOR COURT OF CALIFORNIA COUNTY OF YOLO 1000 MAIN STREET WOODLAND, CA. 95695 530-406-6704	<i>For Court Use</i> ELECTRONICALLY FILED by Superior Court of CA, County of Yolo, on 7/6/2022 11:22 AM By: L. Ramos-Casanova, Deputy
Jorge Luis Jaramillo Lopez, an individual <div style="text-align: center;">Plaintiff,</div> <div style="text-align: center;">vs.</div> <div style="text-align: center;">Defendant</div> Pavestone, LLC	Case CV2022-1135
NOTICE OF CASE MANAGEMENT CONFERENCE	

NOTICE TO ALL APPEARING PARTIES AND THEIR ATTORNEYS:

Notice is hereby given that the above-entitled action has been set for a Case Management Conference on 10/31/2022 at 9:00 AM in Department TBD.

The plaintiff shall serve the Notice of Case Management Conference on each defendant with the complaint.

You must file a Case Management Statement 15 days prior to the above date.

Date: 7/06/2022

SHAWN C. LANDRY, COURT EXECUTIVE OFFICER

/s/ L. Ramos-Casanova

L. Ramos-Casanova , Deputy Clerk

YOCV0142

8/6/2020

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On July 11, 2022, I served all interested parties in this action the following documents described as: **NOTICE OF SERVING COURT'S NOTICE OF CASE MANAGEMENT CONFERENCE** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Pavestone LLC
C/O Agent for Service of Process
Corporate Creations Network Inc.
4640 Admiralty Way, 5th Floor
Marina Del Rey, CA 90292

☒ **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY ELECTRONIC MAIL TRANSMISSION:** I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the below email address(es).

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 11, 2022, at Encino, California.



Michelle Tanzer

JUL 19 2022

* * * *

EXHIBIT B

EXHIBIT B

Todd B. Scherwin (SBN 239848)
E-Mail: tscherwin@fisherphillips.com
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FISHER & PHILLIPS LLP
621 Capitol Mall, Suite 1400
Sacramento, California 95814
Telephone: (916) 210-0400
Facsimile: (916) 210-0401

Attorneys for Defendant
PAVESTONE, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF YOLO

JORGE LUIS JARAMILLO LOPEZ, an
individual,

Plaintiff,

vs.

PAVESTONE, LLC, a corporation; and DOES
1 through 50, inclusive,

Defendant.

CASE NO.: CV2022-1135

*Assigned for all purposes to the
Honorable Daniel M. Wolk, Dept. 9*

**DEFENDANT PAVESTONE, LLC'S ANSWER
AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S COMPLAINT FOR DAMAGES**

Complaint Filed: July 6, 2022

1 Defendant PAVESTONE, LLC (“Defendant”) hereby answers Plaintiff JORGE LUIS
2 JARAMILLO LOPEZ (“Plaintiff”) unverified Complaint for Damages, without waiving their right to
3 remove this case to federal court, as follows:

4 **GENERAL DENIAL**

5 Pursuant to Code of Civil Procedure section 431.30(d), Defendant denies, generally and
6 specifically, each and every allegation contained in Plaintiff’s unverified Complaint.

7 **AFFIRMATIVE DEFENSES**

8 By way of affirmative defenses to the allegations of the Complaint herein, Defendant alleges as
9 follows:

10 **FIRST AFFIRMATIVE DEFENSE**

11 1. Plaintiff’s complaint, and each and every cause of action therein, fails to state facts
12 sufficient to constitute any cause of action against Defendant.

13 **SECOND AFFIRMATIVE DEFENSE**

14 2. Plaintiff’s complaint, and each and every cause of action therein, is barred by the
15 applicable statute of limitations, including, but not limited to, Code of Civil Procedure sections 335.1
16 and 340, subdivision (a), and California Government Code sections 12960 and 12965 to the extent to
17 Plaintiff’s administrative complain lacks the necessary “particulars” required.

18 **THIRD AFFIRMATIVE DEFENSE**

19 3. Plaintiff is estopped by his conduct from recovering any relief sought in the complaint,
20 or in any purported cause of action alleged therein.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 4. By his conduct, Plaintiff has waived any right to recover any relief sought in the
23 complaint, or in any purported cause of action alleged therein.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 5. Plaintiff’s claims are barred by the doctrine of unclean hands.

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1 **SIXTH AFFIRMATIVE DEFENSE**

2 6. To the extent Plaintiff suffered any symptoms of mental or emotional distress or injury,
3 they were the result of a pre-existing psychological disorder or alternative concurrent cause, and not the
4 result of any act or omission of Defendant.

5 **SEVENTH AFFIRMATIVE DEFENSE**

6 7. Plaintiff's claims are barred by Plaintiff's failure to exhaust administrative remedies
7 and/or internal grievance procedures.

8 **EIGHTH AFFIRMATIVE DEFENSE**

9 8. There existed legitimate, non-discriminatory, and non-retaliatory reasons for the alleged
10 acts of Defendant of which Plaintiff complains.

11 **NINTH AFFIRMATIVE DEFENSE**

12 9. Even if there was discrimination against Plaintiff (which Defendant denies), Plaintiff
13 would have been terminated anyway.

14 **TENTH AFFIRMATIVE DEFENSE**

15 10. Plaintiff failed to cooperate in the process of reasonable accommodation.

16 **ELEVENTH AFFIRMATIVE DEFENSE**

17 11. Plaintiff was paid all wages due him on a timely basis.

18 **TWELFTH AFFIRMATIVE DEFENSE**

19 12. Plaintiff's claims for waiting time penalties pursuant to Labor Code section 203 are
20 barred because Defendant did not willfully withhold wages over which there was no good faith dispute
21 and in fact, acted at all times with the good faith belief that Plaintiff was compensated as required by
22 law.

23 **THIRTEENTH AFFIRMATIVE DEFENSE**

24 13. At all times Defendant was acting in good faith and had reasonable grounds for believing
25 that its method of compensating Plaintiff was lawful.

26 **FOURTEENTH AFFIRMATIVE DEFENSE**

27 14. Any recovery on Plaintiff's complaint, or any purported cause of action alleged therein,
28 is barred in whole or in part by Plaintiff's failure to mitigate his damages.

1 **FIFTEENTH AFFIRMATIVE DEFENSE**

2 15. Plaintiff is not entitled to recover punitive or exemplary damages from Defendant on the
3 grounds that any award of punitive or exemplary damages would violate Defendant's constitutional
4 rights under the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States
5 Constitution.

6 **SIXTEENTH AFFIRMATIVE DEFENSE**

7 16. Plaintiff's complaint, and each and every cause of action therein, is barred in whole or in
8 part because the accommodation sought by Plaintiff for his alleged disability or medical condition would
9 impose an undue hardship on Defendant and would negatively impact Defendant's business.

10 **SEVENTEENTH AFFIRMATIVE DEFENSE**

11 17. Plaintiff's complaint, and each and every cause of action therein, is barred in whole or in
12 part because the accommodation sought by Plaintiff for his alleged disability or medical condition was
13 not reasonable and/or Plaintiff's failed to take appropriate steps of his own in response to his disability
14 or medical condition.

15 **EIGHTEENTH AFFIRMATIVE DEFENSE**

16 18. Plaintiff's complaint, and each and every cause of action therein, is barred in whole or in
17 part because Plaintiff failed to take reasonable steps to notify Defendant of his need for an
18 accommodation.

19 **NINETEENTH AFFIRMATIVE DEFENSE**

20 19. Plaintiff's complaint, and each and every cause of action therein, is barred in whole or in
21 part by the applicable statute of limitations, including without limitation California Business and
22 Professions Code section 17208.

23 **TWENTIETH AFFIRMATIVE DEFENSE**

24 20. Plaintiff's claims are barred in whole or in part because Plaintiff lacks standing to assert
25 such a cause of action.

26 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

27 21. Without admitting the allegations of the Complaint, Defendant alleges Plaintiff's
28 purported Sixth Cause of Action is barred in that the alleged practices are not unfair, the public is not

likely to be deceived by any alleged practices, Defendant gained no competitive advantage by such practices, and/or the benefits of the alleged practices outweigh any harm or other impact they may cause.

TWENTY-SECOND AFFIRMATIVE DEFENSE

22. Because the Complaint is couched in conclusory terms, Defendant cannot fully anticipate all defenses that may be applicable to the within action. Accordingly, the right to assert additional defenses, if and to the extent that such defenses are applicable, is hereby reserved.

PRAYER FOR RELIEF

WHEREFORE, this answering Defendant prays as follows:

1. That Plaintiff take nothing by his complaint for damages;
 2. That Plaintiff's complaint herein be dismissed in its entirety with prejudice;
 3. That Defendant recover its costs of suit herein, including its reasonable attorneys' fees;
- and
4. That the court award such other and further relief as it deems appropriate.

DATE: August 10, 2022

FISHER & PHILLIPS LLP

By: 

Todd B. Scherwin
Gregory L. Blueford

Attorneys for Defendant
PAVESTONE, LLC

**PROOF OF SERVICE
(CCP § 1013(a) and 2015.5)**

I, the undersigned, am at least 18 years old and not a party to this action. I am employed in the County of Sacramento with the law offices of Fisher & Phillips LLP and its business address is 621 Capitol Mall, Suite 1400, Sacramento, California 95814.

On **August 10, 2022**, I served the foregoing document(s) **DEFENDANT PAVESTONE, LLC'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT FOR DAMAGES** on the person(s) listed below as follows:

Eric B. Kingsley.
Liane Katzenstein Ly
Jessica L Adlouni.
KINGSLEY & KINGSLEY, APC
16133 Ventura Blvd .. Suite 1200
Encino, CA 91436

Attorneys for Plaintiff
JORGE LUIS JARAMILLO LOPEZ

Emails: eric@kingsleykingsley.com;
liane@kingsleykingsley.com;
jessica@kingsleykingsley.com

- ☒ **[by MAIL]** - I enclosed the document(s) in a sealed envelope or package addressed to the person(s) whose address(es) are listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in Sacramento, California, in a sealed envelope with postage fully prepaid.
- ☐ **[by FAX]** - Based on an agreement of the parties to accept service by fax transmission, I faxed the document(s) to the person(s) at fax number(s) listed above from fax number (916) 210-0401. The machine printed a record of the transmission, and no error was reported by the machine.
- ☐ **[by OVERNIGHT DELIVERY]** - I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the person(s) at the address(es) listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight carrier.
- ☐ **[by ELECTRONIC SERVICE]** - Based on a court order or an agreement of the parties to accept service by electronic transmission, I electronically served the document(s) to the person(s) at the electronic service address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed **August 10, 2022**, at Sacramento, California.

Alicia P. Malerbi

By: _____



Print Name

Signature